



KAISERSLAUTERN LEGAL INFORMER

KLSC WELCOMES NEW CLIENT SERVICES CHIEF



Mark Christensen, who served as Chief of Client Services in Vicenza, Italy, and Fort Richardson, Alaska, is the new Kaiserslautern Legal Services Center Chief of Client Services. He brings a wealth of legal experience with him.

by Steve Smith

On August 17th, Mark Christensen assumed the duties of Chief of Client Services at the Kaiserslautern Legal Services Center, a position previously filled by Lauren Pope, Jim Wiley, Tim Beazley, and Jerry Shiles.

Mark comes to us from Vicenza, Italy, where he served as Chief of Client Services for SETAF the last seven years. Prior to that, he served as Chief of Legal Assistance at Fort Richardson, Alaska, for four years. Mark also brings private practice experience to the table, and held a wide variety of active duty and Guard JAG positions in Alaska, Turkey, Egypt, and Italy. He's been around the block...

Mark is a regular instructor at the annual USAREUR Client Services and Tax Conferences, where he has earned a reputation as a subject matter expert on family law, estate planning, and state and foreign income tax issues. *[See his article on making guardianship desires known through estate planning on page 3.]*

The 21st Theater Sustainment Command and the Kaiserslautern Military Community are extremely fortunate to have this tremendously talented civilian attorney-advisor on our Army legal team. We welcome Mark, his wife Stephanie, and their children, Jack, Max, and Sara, into the 21st TSC JAG family, and wish them all the best in "K-town."

IN THIS ISSUE...

- Contract Counsel Move to K-town
- Guardianship...
- Power of Attorney Pitfalls & Perils
- Article 139 Claims
- Legal Tips on Travel in Europe
- Government Employee Rights
- Financial Disclosure
- And much more!



**United States Army
Judge Advocate
General's Corps -
America's Oldest
Law Firm**

Contracting Command's Move Grows the Army Legal Community in Kaiserslautern

by LTC Ralph Tremaglio



On 1 July, the 409th Contracting Support Brigade/Expeditionary Contracting Command, Europe (409th CSB, Europe) Headquarters and its attorneys relocated from Hammonds Barrack in Seckenheim to Building 3004, Panzer Kaserne. This is the first of several relocations of the former U.S. Army Contracting Command, Europe (USACCE) in accordance with the overall relocation of Army assets in Europe over the next several years. The 409th CSB, Europe will stand up the Theater Contracting Center on Kleber Kaserne later this year, which will relocate assets from Wiesbaden in anticipation of the planned move of the U.S. Army Europe Headquarters from Heidelberg to Wiesbaden.

The Command is part of the Army's restructuring of contracting assets in light of the 2007 Gansler Commission Report. That report highlighted the lack of contingency contracting command and control and the lack of military personnel with contracting experience that Operation Iraqi Freedom exposed. As part of the response, the Army activated the Army Contracting Command (ACC) under AMC. The ACC is comprised of Mission and Installation Contracting Command (MICC) and the Expeditionary Contracting Command (ECC). MICC's mission is to provide all contracting support for the Army CONUS garrisons. ECC's mission is providing all contracting support to the Army OCONUS, to include both garrison and contingency contracting. Even before the restructuring, the Army activated Contracting Support Brigades to address contingency contracting needs, but with the activation of the ECC, the former USACCE merged with a newly created CSB to provide contracting support to the USAREUR AOR.

The 409th CSB, Europe is comprised of a Headquarters, a battalion (903rd CCBn, also located in Kaiserslautern), and presently five regional contracting offices. The command performs all the contracting, both garrison and contingency, for the U.S. Army, Europe and, for the time being, AFRICOM. The battalion has contingency contracting teams located in Kaiserslautern, Grafenwoehr, and Vicenza who support the contingency missions in USAREUR and AFRICOM. The RCOs are located in Brussels, Wiesbaden, Baden-Württemberg, Grafenwoehr, and Vicenza, and they provide contracting to IMCOM and units while in garrison, while also providing reachback support to the contingency contracting teams. This amounted to over \$1.4 billion in contracting actions last fiscal year, and we are on track to surpass that this year.

These moves mean that the legal community in Kaiserslautern is growing as well. The Headquarters move brought four mili-



tary attorneys to Panzer Kaserne; Command Counsel (LTC Ralph Tremaglio), Deputy Command Counsel (MAJ Mark Ries), Command Judge Advocate (MAJ Robert "Arby" Nelson), and an Operational Contracting Attorney (CPT Nancy Lewis). When the Theater Contracting Center opens, an additional three civilian attorneys will be added to the Kaiserslautern legal community.

For those interested in what we do, stop by on your next visit to Panzer. I am located on the 2nd floor of Building 3004, and the rest of the Command Counsel shop is located on the 3rd floor, the same floor as the OSJA, just across the hall from Mr. Smith.

New JAGs on the Block: MAJ Mark Ries, LTC Ralph Tremaglio, CPT Nancy Lewis, & MAJ Arby Nelson

Making Guardianship Desires Known Through Estate Planning...

by Mark Christensen

As I dropped off my children for their first day of school in the KMC last month I saw around me hundreds of children and wondered how many of their parents have taken time to make known their desires about guardianship for their children in case of death. Most parents can help avoid confusion and disputes concerning care of their children by taking a few simple steps to express their preferences. We recommend that all parents have an up-to-date plan for what they want to happen with their children, and their children's property, in the event of death of the parents.



The most effective planning document for most parents is a Last Will and Testament. This is a document in which you identify family members, guardians for minor children, and beneficiaries of property. By stating your preferences in the form of a properly executed Last Will and Testament, you eliminate the uncertain and often traumatic prospect of your surviving family members guessing as to what you would have liked.

A Will lets you name several sets of people who will deal with your affairs after you die. An executor is the person who will take care of your property after you die, settle your affairs, and distribute your property to your beneficiaries. Your beneficiaries are the people who will receive your property. But most important for minor children is the appointment of guardians to take care of them and their property.

If you die without a Will or do not adequately provide for your children, these matters may be decided by a probate judge after lengthy and expensive litigation. There is no guarantee a judge will do what is best for your family. So, what should you do?

1. Discuss your desires with your spouse or the other parent of your children. Since you should each write your own Last Will and Testament, it is important that those documents are consistent. If you name your sister to care for your children, and your spouse names a brother, you have a built-in child custody dispute just waiting to happen.

2. Think through all possibilities if you have a blended family. A blended family is one with children from separate parental relationships. Carefully consider the parental, custodial, or visitation rights or roles shared by non-custodial parents, grandparents, or other relatives. Think about what is best for your child or children in terms of who can and will care for them.

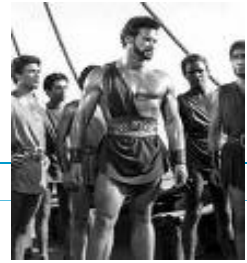
3. Consider whether any of your children have special needs you can address in your Will. Not all children are equal, and you are not limited to giving your children equal shares of your property if you feel their needs are not equal. Most of us do not equally spend on our children while we are alive, and the same thinking applies to caring for our children after death.

Take the time now to consider your plan for caring for your children after your death. These are decisions that should not be made in the rush of predeployment processing, but instead after careful and thoughtful discussion with your spouse and other family members. By putting your preferences into writing in the form of a properly executed Last Will and Testament, your surviving family members will not have to guess what you would prefer, or engage in a court custody case, during their time of grief.

The Kaiserslautern Legal Service Center Legal Assistance Office has questionnaires for creating or updating your estate or guardianship plan, and will ensure your desires are detailed in your Will. Contact the Legal Assistance Office at DSN 483-8848 or Civilian 0631-411-8848 for more information, or to set up an appointment to see a Legal Assistance Attorney.

Power of Attorney Pitfalls & Perils

How to avoid getting "fleeced..."



by CPT Carl Hill

AFN has ensured that every American in Europe knows the difference between a general power of attorney and a special power of attorney. I will spare you a painful reiteration of those definitions. Surely leaving a spouse or trusted loved one with a general power of attorney will prepare anyone to deploy, right? Think again.

Some people are procrastinators by nature. They wait until one day past the deadline to address any need. Many of these people see personal, legal, or financial needs as being fully addressed by a power of attorney. They will wait until a few hours before stepping on the airplane bound for the desert before they grant power of attorney. Others, through no fault of their own, are called to deploy on very short notice. They must scramble to make arrangements before departure. While it may be easier to grant one general power of attorney than to generate multiple special powers of attorney, AFN watchers will understand why that is ill-advised. That is how Hercules lost his golden fleece.

A power of attorney is about business, not romance. Do not confuse the two. For those unmarried warriors deploying to faraway battlefields and leaving a sweetheart behind, a power of attorney is not a testament of true love. If your special someone insists that you demonstrate your love by entrusting them with a power of attorney, then you would do well to remember Samson and Delilah. Delilah protested that Samson did not love her unless he entrusted her with the secret to his strength. A general power of attorney is something akin to scissors. Delilah chopped off Samson's hair and left him powerless and blinded. Samson should have kept quiet and hid the scissors. Likewise, Soldiers should resist the urge to leave a general power of attorney as a romantic gesture to a sweetheart. Reserve general powers of attorney for those you would literally trust with your life.

There is no duty for any given institution or agency to honor a power of attorney. With increasing regularity, banks and other financial institutions are refusing to accept a power of attorney, particularly a general power of attorney, for conducting transactions. This trend makes sense for financial institutions, since identity theft and fraud run rampant in our age of digital business transactions. While it may be inconvenient at times to prepare multiple special powers of attorney for separate financial institutions or governmental agencies, it also adds a layer of protection. If you foresee a need to use a power of attorney with any particular institution, you should (time permitting) visit that office in person with the person you intend to authorize as your representative. Explain your circumstances and your intentions. Ask if that institution will accept a power of attorney and let your representative act on your behalf. With a personal appearance before deployment, the chances are significantly better that your power of attorney will be accepted. Even if the answer is, "No," at least you will not be unpleasantly surprised while deployed.

Now that so many transactions can be accomplished on-line, the need for powers of attorney is not what it used to be. You should not give a power of attorney to anyone unless it is absolutely necessary. If you are able to handle all of your business transactions online, consider that as an option. Ask your S-6 if your place of deployment will support secure transactions. If reasonable online security is available, you may not have a need to give power of attorney.

As a last resort, your deployed legal office should be able to generate a power of attorney, but do not use this as an excuse to procrastinate. That will create an unnecessary delay for you and your agent, and an additional burden for your legal office downrange.

Powers of attorney are prepared on a walk-in basis at the Kaiserslautern Legal Services Center's Legal Assistance Office. No appointment is necessary. Opening hours are Monday thru Friday, 0900 to 1200 and 1300 to 1600. We are closed Thursday mornings for training. Call DSN 483-8848 or Civilian 0631-411-8848 for more information on powers of attorney and other legal assistance services.

Making the Most of Your Legal Assistance Visit

by CPT Matt Freeman

The Kaiserslautern Legal Services Center provides personal legal assistance to thousands of clients each year. Our team of lawyers and paralegals is committed to ensuring the legal readiness of our clients. We work to maximize services to you by addressing your legal requirements, hopefully reducing or eliminating the need for you to pay for private legal help. Here are some tips to help make a visit to the Legal Assistance Office more efficient and productive:

1. Plan the Work and Work the Plan. Be prepared, and arrive on time or early for your appointment. Be sure to bring all relevant documents to your appointment. If you have a file or collection of documents concerning your situation, bring them all, even if you think some will not be used by the lawyer. Sit down and think about your situation and decide what you want to happen, and what you want your legal assistance attorney to accomplish. Think about how your position looks to the other side, put yourself in different positions, and assess what you want and how you want to obtain it. Write down your questions and summarize your thoughts.

2. Come Early and Often. Legal problems often do not get better with age. Sometimes mission, deployment, or life in general may interfere with making time to file a claim, prepare a tax return, or respond to a court letter. Whenever possible, you should not wait until the last minute to address a legal need. Do not wait for suspense dates or deadlines to pass. Most situations are more appropriately addressed when there are no pressing time constraints.

3. Appreciate the Role of Legal Assistance Attorneys. The Army Legal Assistance Program enables our personnel go to great lengths to help clients with their legal issues. However, there may be some limitations, especially since we work outside the United States, and our lawyers usually cannot represent you in court. Be prepared to give your Legal Assistance provider as much information as possible about your case, but also understand that some legal problems can only be resolved by the use of private lawyers licensed to practice in a particular state.

4. Understand Attorney-Client Confidentiality. Visits to the Kaiserslautern Legal Services Center are normally protected by the attorney-client privilege, meaning that our personnel may not disclose your visit or the nature of your case with anyone without your permission. We will zealously provide you assistance with the information you give us, and we will make sure your private legal matters do not become public knowledge.

Our mission is to help you address your legal needs so you can focus on your mission. Contact us at DSN 483-8848 of Civilian 0631-411-8848 for more information or for an appointment.



KAISERSLAUTERN LEGAL SERVICES CENTER

Building 3210 Kleber Kaserne

Legal Assistance 483-8848

Tax Assistance 483-7688

Claims 483-8414/8862

International Affairs 483-8854

Trial Defense Service 483-8165

[Civilian: 0631-411-XXXX]

Administrative Law 484-7450

Criminal Law 484-8311

[Civilian: 0631-413-XXXX]



In July, the outgoing 21st TSC Staff Judge Advocate, Colonel Corey Bradley, presented the Superior Civilian Service Award to Mr. Joseph Hall, Chief of International Law for the 21st TSC OSJA.



In August, the incoming 21st TSC Staff Judge Advocate, Colonel Claes Lewenhaupt (center), and Deputy SJA, Lieutenant Colonel Harper Cook (left), were given a warm welcome and a tour of the Ramstein courtroom by Colonel Jeff Rude (right), the 86th Airlift Wing SJA.

Hails & Farewells: This summer we bade farewell to our SJA, COL Corey Bradley, our Deputy SJA, LTC P.J. Perrone, our Chief Paralegal NCO, MSG Dawn Byrnes, the Officer-in-Charge of the KLSC, CPT John Kokoszka, and our Paralegal Specialist, SPC Marta Umpierre. We welcomed our new SJA, COL Claes Lewenhaupt, our new Deputy SJA, LTC Harper Cook, our new Chief Paralegal NCO, MSG(P) Diana Clark, our new KLSC Chief of Client Services, Mr. Mark Christensen, and our new Paralegal Specialist, SPC Joshua Globor.

Article 139 Claims... A Route to Recovery

by CPT Erik Lapin

If you feel a member of the Armed Forces has willfully damaged or wrongfully taken your property, you may be able to recover for your damage by filing an Article 139 claim. An Article 139 claim is an administrative mechanism for assessing and paying restitution to the victim of certain types of criminal offenses committed by active duty service members. An Article 139 claim can be submitted by a civilian, service member, business entity, state or local government, or charity.

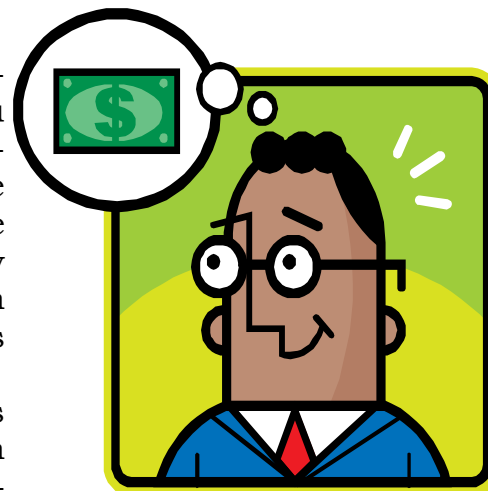
An Article 139 claim may be filed for property that is willfully damaged (*e.g.*, vandalism) or wrongfully taken (*e.g.*, theft). Article 139 does not apply to claims for personal injury, accidental property damage resulting from negligence, or contract disputes. Direct damage is payable under Article 139; however, indirect damage is not payable. The cost to repair the damage to your vandalized car is an example of direct damage. An example of indirect damage is the cost of a rental car while your car is being repaired.

An Article 139 claim must be written, must be signed by the claimant, and must seek a definite sum of money in U.S. dollars. Include police reports, repair estimates, purchase receipts, and any other relevant documentation. The complaint must be submitted within 90 days of the incident that gave rise to the claim or there must be good cause for the delay.

The person making the claim must file it with the Special Court-Martial Convening Authority having jurisdiction over the alleged offender. However, any claims office can process a claim and forward it to the appropriate Special Court-Martial Convening Authority. Once an Article 139 claim has been filed, the Special Court-Martial Convening Authority will appoint an officer to conduct a formal investigation. Within 10 working days of appointment, the investigating officer is expected to complete an investigation into the claim. If the investigating officer determines that it is "more likely than not" (*i.e.*, there is a preponderance of the evidence) that the claim is valid, then the Special Court-Martial Convening Authority can order up to \$5,000 in compensation to be approved immediately and can recommend approval of higher levels of compensation to the U.S. Army Claims Service. This money is then collected directly from the wrongdoer's paycheck and paid to the victim.

Although Article 139 does not provide for a right of appeal, either the claimant or a Soldier whose pay has been assessed may request the approval authority to reconsider the action. Both the claimant and respondent have 10 working days to request reconsideration. The request for reconsideration must be in writing and clearly state the factual or legal basis for reconsideration.

If you have further questions about how to file an Article 139 claim, contact the Kaiserslautern Legal Services Center Claims Office at DSN: 483-8304 or Civilian 0631-411-8304, or stop in at Building 3210 on Kleber Kaserne.



"Know Before You Go"

A German attorney offers legal tips on travel in Europe...

by Joerg Modelmog

A tour of duty in Europe provides unparalleled travel opportunities, but there are a few things you should know before you go. This article will highlight various legal requirements when it comes to traveling and crossing international borders within Europe, and certain rights you enjoy as an air or rail passenger in Europe.

Most European Union (EU) member states, and even some non-EU countries, have signed the so-called "Schengen Treaty." While that treaty abolishes border controls, it does not dispense with the requirement to carry a valid passport (and in certain cases, a visa), when crossing a border. In fact, the Schengen Treaty specifically allows for random checks at the border or within a certain distance of the border. It is also important to know that Great Britain and Ireland did not sign the Schengen Treaty and, therefore, those two countries still have mandatory passport controls. So if you are flying to London or Dublin for a visit, don't forget your passport! And even if you are just driving to Paris for the weekend, you must have your passport with you.

Your SOFA status is limited to the host country, in which you are stationed, so it is a good idea to carry a SOFA stamp [or a blue laminated SOFA card] in your passport with you when traveling in Europe, in order to prove your SOFA status. It may help explain any missing but otherwise required tourist entry/visa stamp, and will also help you get back into Germany after your trip.

A note of caution here: if your spouse is not a US citizen or comes from a non-EU country, you should check at the Consulate website of your desired destination for any special visa requirements. For example, if your spouse is a citizen of Korea, she only enjoys SOFA status within the host country, and she may have to comply with the visa requirements of other European nations if she wants to travel outside Germany.

Military personnel stationed in Europe should also check the DoD Foreign Clearance Guide at <https://www.fcg.pentagon.mil/> for any exceptions to the requirement to carry a passport in the countries they intend to visit, and make sure they have their leave form and any required border crossing documents with them when they travel.

When driving your privately-owned vehicle outside Germany, many EU member states require you to have an international driver's license. Generally, your USAREUR certificate of license is not accepted outside the country in which you are stationed. For more information on how to obtain an international driver's license, contact the Driver Testing Office on Daenner Kaserne (Bldg. 3104, Room 106) at DSN 483-7332/7482 or Civilian 0631-411-7332/7482. You must pick up a request for an international driver's license and have it stamped by Driver Testing before taking it to the office that generates international driver's licenses for the town where you live. You will also need to take along €15.30 in cash and a "biometric" passport photo (head and shoulders, looking straight at the camera, no silly smiles), and your valid USAREUR driver's license. An international driver's license is normally valid for three years, unless your USAREUR driver's license expires sooner than that.

When traveling to another country by car, you should take time before you depart to research the traffic regulations and speed limits of the countries you will be visiting. A quick but incomplete summary of applicable traffic rules is generally posted at the place where you cross the border. However, the traffic regulations vary a lot within the different EU states, and you should not assume anything. For example, some countries, like Italy, require you to keep your driving lights on all the time or mandate that a reflective emergency warning vest be placed inside your car, as opposed to in the trunk.

Liability insurance on privately-owned vehicles is mandatory within all EU member states and provides coverage in case of an accident abroad. Some EU member states require drivers to carry an insurance card in their vehicles as proof of such coverage. These cards are easy to obtain and free of charge. Just ask your car insurer for a "green insurance card."

Finally, if you are traveling by air within the EU and you experience long delays, are denied boarding, or your flight is cancelled, you may be entitled to compensation for inconvenience and various incidental expenses, such as lodging and meals. There are big, brightly-colored posters in airports all over Europe advising passengers of "Your Rights" and where to complain. If you find yourself stuck in an airport, look for these posters and demand that the carrier comply with their obligations under EU law. Similar EU legislation affecting rail passengers is due to take effect on December 3, 2009. For more information on your rights as a passenger, check out the following link: http://ec.europa.eu/transport/passengers/index_en.htm.

If you have other legal questions related to travel in Europe, make an appointment to see a legal assistance attorney by calling DSN 483-8848 or Civilian 0631-411-8848.



PROTECTING YOUR RIGHTS AS A FEDERAL EMPLOYEE

by **Teresa Robison**

If you are a federal employee, and you have concerns arising from your employment, or you wish to request changes in your conditions of employment, you should be aware of some basic information. What routes are available for addressing conditions of employment? Which method is best for your particular circumstances? The information provided below is highly generalized, but should answer some of your questions, and, at a minimum, point you in the right direction.



Disability: If you have a disability under the terms of the Americans with Disabilities Act (ADA), you may be entitled to receive accommodation to more easily accomplish your duties. The procedure is to request the accommodation from your employer. There are a few things you must understand regarding such requests. First, you may be required to submit medical information to your employer supporting the request. Second, an accommodation must be focused on allowing you to better perform your duties despite your disability; for example, a vocal encryption device allowing you to speak to your computer instead of typing may be appropriate for someone with vision impairment. Lastly, you should understand that the term “disability” has its own unique meaning, and has different standards than a disability rating from the Department of Veterans Affairs or other sources. It is not uncommon to be rated as a disabled veteran, but not meet the standards for disability under the ADA. A good resource if you wish to pursue an accommodation is your local Equal Employment Opportunity Office (EEO).

Discrimination: If you believe that your employer is treating you differently because of your membership in a protected category, you can initiate a complaint with EEO. They will conduct an informal investigation to aid you in determining whether you might be the victim of discrimination, and will assist you, to a point, in processing that complaint should you decide to go forward. Protected categories include race, color, nationality, gender, religion, age, and disability. You can also invoke EEO if you believe that your employer is treating you differently in reprisal for engaging in past EEO activity. Finally, be aware that, to go forward, a complaint must generally be initiated within 45 days of the time you discover that you may be a victim of discrimination.

Adverse Actions, 15 days or more: The Merit Systems Protection Board (MSPB) is the body which adjudicates complaints about more serious adverse job actions, such as suspensions greater than 14 days, on up to terminations. The MSPB has jurisdiction over other job actions as well; however, a full discussion of these actions is beyond the scope of this article. A comprehensive list of actions appealable to the MSPB may be found at 5 USC 1201. Appeals must be filed within 30 calendar days of the effective date of the action. The web-site for the MSPB, www.MSPB.gov, contains information about how and when to file appeals, as well as forms and processes to be used.

Other matters: For actions not falling within the categories noted above, an employee may invoke a formal grievance process. The employee should first address the problem with their supervisor, who must attempt resolution within 15 to 30 days. If this attempt fails, the employee may submit a formal written grievance, but must do so within 15 days. Alternatively, the employee may bypass the initial stage and submit a formal grievance without first addressing the complaint with their supervisor, but must do so within 15 days of the act creating the problem. Once the deciding official has rendered a decision, it is generally not subject to appeal.

This is only a general overview of avenues available to address employee concerns, and other avenues, such as the Inspector General, or Congressional complaints, are also available. However, the forums and methods listed above are focused on resolving the most difficult issues a federal employee may encounter. If an employee is experiencing difficulties, he or she should first assess the nature of the difficulty, then proceed using the method that best addresses that problem.

Editor's Note: *Teresa Robison is the new Labor Law Attorney in the 21st TSC OSJA's Civil Law Division. She arrived in June from Fort Richardson, Alaska, where she served as a Labor and Contract Law Attorney for the last nine years. We're delighted to have her on board!*

The Ethics Corner...

by Jeannine Smith

***FINANCIAL DISCLOSURE:
WHAT IT IS AND WHY IT MATTERS...***

In past columns, we've talked about conflicts of interest in the context of gift acceptance. For example, you probably shouldn't accept a vendor's gift of coveted tickets to a KFL football match, even if they're valued at less than the gift exception amount of \$20, if they're being offered to you because the vendor expects business in return. Accepting the tickets could potentially put your public duties in conflict with your private financial interests. In this column, we're going to discuss conflicts of interest in the context of existing financial holdings.

Here's the big picture. The Executive Branch of the Federal Government wants to assure U.S. taxpayers, and anyone seeking to do business with the Federal Government, that its decisionmakers are completely neutral. Our decisionmaking process is transparent, and our primary goal is to achieve best value for the dollar. We do not endorse or show favoritism to any particular entity or individual, and we cannot be "bought" or improperly influenced. We uphold the principles of competition and fairness, and (apart from certain statutory programs) everyone has an equal opportunity to do business with the Federal Government.

So how do we walk the talk? One way is through Financial Disclosure, an annual program established by the Office of Government Ethics (OGE). There are two types of Financial Disclosure: Public and Confidential.

For the Public Financial Disclosure Program (also called the "278" program because the form that's filed is an "SF 278"), it's easy: if you're a General Officer, a member of the Senior Executive Service, or a Presidential Appointee (among others), you have to file an SF 278 every year. It's how very senior folks in the Federal Government show the public that their private financial holdings do not conflict with, or improperly influence, the conscientious performance of their official duties – it's all out there, for all the world to see. The form even shows a range of dollar amounts, so the public can get a general idea of just how much CACI stock the Secretary of Defense owns, for example.

For the Confidential Financial Disclosure Program (also called the "450" program because the form that's filed is an "OGE Form 450"), many hurdles need to be crossed when determining who qualifies as a filer, and we'll summarize them briefly below. But rest assured that, if your position is designated as a filing position, the only people who can see your form are your supervisor and the Command's Ethics Counselor. Between those two individuals, a determination will be made about whether a filer's private financial holdings (just the assets themselves, not the amount owned) pose an actual or potential conflict with the filer's official duties. If no actual or perceived conflict exists, the filer is good to go. If there is a potential or actual conflict, however, the employee must either divest (e.g., sell the stock in question) or be disqualified from any official duties that involve that particular company.

For example, let's say that you're a Contracting Officer, which means that part of your job involves awarding potentially lucrative Federal contracts to qualified bidders. Your procurement-related position has been designated as a "filing" position, meaning you must file a Confidential Financial Disclosure form every year. On that form, you disclose that your personal financial holdings include SAIC stock. You don't have to disclose how many shares of SAIC stock you own or their value, just that you own it. Your supervisor, who knows your duties, will review the form for potential conflicts of interest. If it turns out that your job as Contracting Officer may involve procurements for which SAIC is a bidder or current contractor, Bingo! There's the potential conflict of interest. See, if SAIC is awarded a multi-million dollar Government contract, the value of your SAIC stock will probably increase....which means that you may (subconsciously, perhaps) be more inclined to favor SAIC when awarding the contract. In that moment, when your personal financial interests stand to improve based on your official actions, a conflict of interest exists. The solution would be to either sell off your SAIC stock or disqualify yourself from that particular procurement,

*(continued on page 10...)*



Colonel Claes Lewenhaupt, the 21st TSC Staff Judge Advocate, presents the Commander's Award for Civilian Service to the Kaiserslautern Legal Service Center's civilian Lead Court Reporter, Ms. Conchita Dunn, for her outstanding accomplishments in generating records of trial, mentoring military court reporters, and helping to keep the 21st TSC OSJA "First in Support" when it comes to military justice.

FINANCIAL DISCLOSURE:

WHAT IT IS AND WHY IT MATTERS...

(...continued from page 9)

and the Government's procurement integrity will remain intact.

So, how do you know if you're a filer? Or if you should be a filer? Well, the determination is made by supervisors, and is based on position. Certain positions, like Brigade Commanders, are almost always designated as "filing positions." Other typical filing positions include those involving procurement or contracting, where the employee exercises significant judgment when making decisions or rendering advice, without substantial supervisory review. And that's the key, because another layer or two of supervisory review provides added protection and objectivity, and reduces the likelihood of conflicts of interest. In addition, even if those protections exist, supervisors generally have broad discretion to determine that certain positions should be filing positions, simply by virtue of a possible appearance of potential conflicts of interest.

Ultimately, with the Financial Disclosure Program, everybody wins. A few quick keystrokes and mouse clicks (the program is automated, of course) go a long way to prevent conflicts of interest, provide transparency, ensure procurement integrity in the Federal Government.

As with most law-related topics, there is much more that goes into the analysis, and every situation is different. This column provides only the highlights. For more information, call your Ethics Counselor or go to <https://www.fdm.army.mil/>.

Directions to Kleber Kaserne:

From Vogelweh, Ramstein, or Landstuhl take the A6 direction Mannheim. On your right you will see a large store called Möbel Martin. Make sure you are in the right lane as you take the Kaiserslautern Ost Ausfahrt (exit). Turn right as you leave the exit ramp and drive downhill until you reach the stop light. Turn right and proceed straight until the next stoplight. Turn left and you will be beside Kleber Kaserne. Follow the perimeter until you come to an open gate. Once you are on post, park in the Shoppette parking lot. Bldg. 3210 is directly across from the Shoppette. Enter Bldg. 3210 from the end door, closest to the Shoppette.

